IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

APPEAL FROM ORDER NO.934 OF 2005
FROM
ORDER PASSED ON 19.08.2005
BY
CITY CIVIL COURT
IN
NOTICE OF MOTION NO.2949 OF 2005
IN
B.C.C.LONG CAUSE SUIT NO.3313 OF 2005

D.P.Zaveri .. Appellant

v/s.

The Municipal Corporatiion
of Greater Mumbai. .. Respondent

Ms.Sunita Poddar with Mr.S.H.Bohre for the appellant.

Mr.J.J.Xavier for the respondent.

CORAM : B.H.MARLAPALLE, J.

DATED : 10th October, 2005

P.C.

Heard the learned counsel for the appellant who has instituted L.C.Suit No.3313 of 2005 against the notice dated 1.12.2004 issued by the Municipal Corporation of Greater Mumbai under section 351 of the M.M.C.Act. By the impugned order, the learned Judge of the trial court declined to grant ad-interim order of status-quo in respect of the suit structure which the Corporation claims that it is an illegal addition to the original shop.

2. Reply to the said notice dated 1.12.2004 was very cryptic and the Assistant Commissioner, 'C' Ward considered the copy of the complaint submitted by the plaintiff while passing the order dated 5.8.2005 which is the subject matter of challenge in the pending suit. The said plan has been approved by the authorities some time in 1972. Thus, there was no material placed before the trial court so as to grant ad-interim order of status-quo. It is also to be noted that the plaintiff claims to be a tenant and the owner viz. Juma Masjid has not yet been impleaded as defendant No.2 inspite of the averments made in the plaint to that effect.

3. Under the circumstances, there is no case made out to interfere with the order passed by the court below. Appeal is dismissed in limine.

(B.H. MARLAPALLE, J.)